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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 1594 OF 1997

Dated, the 15th March, '99.

BETWEEN :

T. Govind Rao Applicant

A N D

1. The Chief Executive,
Nuclear Fuel Complex,
Department of Atomic Energy,
ECIL Post,
Hyderabad 500 062.
2. The Deputy Chief Executive (A),
Nuclear Fuel Complex,
Department of Atomic Energy,
ECIL Post,
Hyderabad 500 062.

COUNSELLS :

For the Applicant : Mr. Krishna Devan.

For the Respondents : Mr. V. Rajeswara Rao

COHAM:

THE HON'BLE MR. R. RANGARAJAN, MEMBER (ADMIN)

THE HON'BLE MR. B.S. JAI PARAMESHWAR, MEMBER (JUDL)

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O R D E R

(PER: THE HON'BLE MR. B.S. JAI PARAMESHWAR, MEMBER (JUDL))

1. Heard Mr. Krishna Devan, Learned Counsel for the applicant and Mr. V. Rajeswara Rao, Learned Standing Counsel for the Respondents.
2. The applicant joined the Nuclear Fuel Complex on 1.3.92 as Welder Tradesman 'A' and was promoted to Tradesman 'B', during February, 1986 to Tradesman 'C' and to Tradesman 'D' with effect from 1.2.93 in the scale of Rs.1320-2040.
3. While the applicant was working as such, he was served with a minor penalty charge memo dt. 9.9.93 alleging that he had refused to accept the official communication No.NFC/FD/GR/1 dt. 1.6.93 from the Fuel Development Officer. The said charge memo was ^{Concluded} disposed off by the Disciplinary Authority for imposing penalty of censure. The said penalty was confirmed by the appellate authority.
4. The applicant challenged the said order of the appellate authority in the O.A. 1258/94. On 28.10.96, ^{Was} the O.A. disposed off setting aside the order of the appellate authority and directing the appellate authority to reconsider the appeal of the applicant afresh after affording personal hearing.
5. As per the directions of this Tribunal, the appellate authority gave personal hearing. During the personal hearing, the applicant was helped by his assistant.
6. After hearing the applicant, the appellate authority confirmed the punishment of "Censure".
6. The applicant has filed this O.A. to declare the impugned order dt. 17.1.94 passed by the Respondent No.3 imposing penalty of "Censure" on the applicant.

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which was confirmed by the appellate authority in the order dated 25.8.97, as arbitrary, malafide and vitiated by principles of natural justice and to set aside the same.

7. The respondents filed a counter stating that in accordance with the directions given by this Tribunal, an opportunity was given to the applicant. The applicant was represented by his assistant by name A. Somananda Rao and after hearing the applicant the appellate authority has passed the impugned order. Further, They have annexed to the reply the proceedings that had taken place before the appellate authority as per the directions of this Tribunal.

8. The learned counsel for the applicant during the course of hearing submitted that the appellate authority has not complied with the directions of this Tribunal given earlier; that the appellate authority ^{has not considered} whether the charge sheet was read out to him or not; that the appellate authority had not considered whether the applicant had submitted his explanation to the charge memo earlier and that the appellate authority's order is the same as passed earlier following the direction in the O.A.1258/94 (Annexure-6, Page 18 to the O.A.). His further contention is that the direction given by this Tribunal in para 5 has not been complied in accordance with Law.

9. The contention of the applicant that the appellate authority has not complied with the directions of this Tribunal in deciding the appeal cannot be accepted. The respondents have filed Annexure-R3 to state that proceedings took place as per the directions of this Tribunal. The applicant has also signed therein. Further the appellate

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authority in para 7 of the impugned order dt. 25.8.97

has observed as follows :

"a) A warning letter bearing No.NFC/FD/GR/1 dt.1.6.93 was to be issued to Shri Govind Rao on 3.6.93 and he had refused to accept it from the office of the Fuel Development Section. Later, Smt. Meena Ravindran, Scientific Officer has personally tried to handover the same to Shri Govinda Rao in the presence of S/Shri A.Harinayayana, Scientific Officer and K.Madhava Rao, Scientific Assistant but Shri Govind Rao had refused to accept the letter even though the contents of the letter were read out to him and translated in Telugu. The above fact is established from the letter dt. 4.6.93 of Smt. Meena Ravindran with the endorsement of the above officials and hence the charge that Shri Govind Rao has refused to accept the official communication No.NFC/FD/GR/1 dt.1.6.93 from Fuel Development Officer is proved.

b) Though Shri Govind Rao has been representing that he had submitted his defence statement against charge memmo No.NFC/PA.V/2606/3945 dt. 9.9.93, the same was not substantiated. He was vide letter No. NFC/PA/V/2606/3945/656 dt. 10.11.93 reminded to submit his explanation within 10 days. Shri Govind Rao has not responded even to the above letter. Had he submitted the statement, as stated by him, he would have either furnished a copy of the same or confirmed that he had already submitted his defence statement on 29.3.93 itself. Shri Rao has also not made any mention about this during his personal hearing.

10. The main point for consideration in this O.A. is whether the applicant was not given an opportunity to explain his case, even though a personal hearing was ordered in the previous O.A. The personal hearing is given to ensure that the applicant submits all his contentions in person to the appellate authority. More than that no further direction was given in that O.A. The respondents have complied with that direction fully by giving a personal hearing and also recording the proceedings thereof. If the applicant could not state his contentions fully in the personal hearing granted to him by the respondents

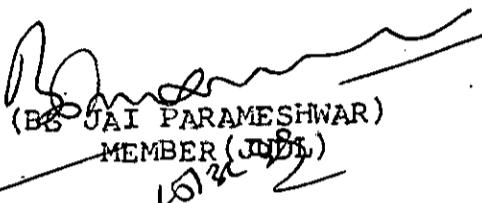
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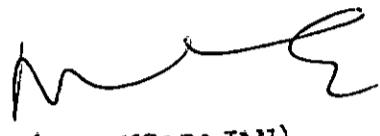
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nobody can be claimed for that. Hence, we feel that the contention of the applicant as to the non-translation of the charge sheet and also perusing his appeal, we do not see any merits in this O.A.

11. The O.A. is accordingly dismissed. No order as to costs.


(BS JAI PARAMESHWAR)
MEMBER (JUDG)


(R RANGARAJAN)
MEMBER (ADMIN)

Dated, the 15th March, '99.

Dictated in Open Court.


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Copy to:

1. HON'BLE
2. H.R.P. M.(A)
3. H.S.D.P. M.(J)
4. D.R. (A)
5. SPARE

1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR:
VICE - CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD:
MEMBER (A)

THE HON'BLE MR. R. RANGARAJAN
MEMBER (A)

THE HON'BLE MR. B. S. JAI PARANESWAR
MEMBER (J)

DATED: 15.3.98

ORDER/JUDGEMENT

MAU/RAU/DP. NO.

IN

C.A. NO. 1594/97

ADMITTED AND IN TERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

(Despatch)

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal
ब्रेष्ट / DESPATCH

30 MAR 1999

हैदराबाद ब्यासपार
HYDERABAD BENCH